

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1547**

Anita M. Froderman,
n/k/a Anita M. Sydorowicz, petitioner,
Respondent,

vs.

Jeffrey T. Lais,
Appellant.

**Filed October 30, 2023
Affirmed
Cleary, Judge***

Nobles County District Court
File No. 53-FA-13-838

Sara J. Runchey, Runchey, Louwagie & Wellman, P.L.L.P., Marshall, Minnesota (for respondent)

Jacob M. Birkholz, Michelle K. Olsen, Birkholz & Associates, LLC, Mankato, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Bjorkman, Judge; and
Cleary, Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

CLEARY, Judge

Appellant-father challenges the district court's order establishing a parenting-time schedule for the 2022-2023 school year. Appellant seeks reversal and remand, arguing that the district court's decision regarding the parenting-time schedule is not supported by sufficient factual findings. We affirm.

FACTS

Appellant-father Jeffrey T. Lais and respondent-mother Anita M. Froderman, now known as Anita M. Sydorowicz, are the parents of a child born in 2013. In January 2014, father and mother stipulated to an agreement to resolve custody, parenting time, and child support. The agreement granted father and mother joint legal custody and granted mother physical custody of the child—subject to father's parenting time. The agreement included an annual parenting-time schedule. The district court incorporated the terms of the agreement in an order filed in January 2014. Since then, the parties have had ongoing legal disputes regarding parenting time, custody, and other matters. A summary of the relevant proceedings follows.

In a May 2014 stipulated order, the district court amended the January 2014 order, removing the stipulated parenting-time schedule and setting a new schedule that increased father's parenting time.

In August 2018, just before the child started kindergarten, both parties filed motions regarding parenting time and school choice. The district court denied both motions, maintained the existing parenting-time schedule, and ordered the parties to attend

mediation. At that time, father had 43% of parenting time and mother had 57% of parenting time.

In July 2019, after mediation, the parties stipulated to the appointment of a parenting-time consultant, which the district court adopted in a written order. The stipulated order provided:

The Parenting Time Consultant shall work with the parties to establish an acceptable parenting-time schedule and if the parties are unable to reach [an] agreement, establish a schedule of parenting time for Father, and . . . Father shall receive three (3) weekends a month during the school calendar year, including any adjacent days off from school and greater than one-half of the summer non-school months.

In September 2019, the parties worked with the parenting-time consultant but were unable to agree upon a schedule for the upcoming school year. As a result, the parenting-time consultant developed a 2019-2020 school-year schedule in which father received “three (3) weekends per month,” including “all expanded weekends” and a summer 2020 schedule in which father received alternating weeks along with “expanded periods of time each month to ensure more than six (6) weeks of summer parenting time.” The district court filed an order in January 2020 affirming the parenting-time consultant’s schedule. The district court also ordered the parties to meet with the parenting-time consultant prior to mid-August 2020 to establish a parenting-time schedule for the 2020-2021 school year. The parties failed to do so.

Instead, in September 2020, father filed a motion to modify custody, modify the parenting-time schedule, and appoint a parenting-time consultant. Shortly thereafter, the district court issued a temporary order that required the parties to continue following the

parenting-time schedule adopted in the January 2020 order while the district court considered father's pending motion. *See* Minn. Stat. § 518.131 (2018) (addressing orders for temporary relief).

In December 2020, father filed another motion seeking to modify custody, modify the parenting-time schedule, and appoint a parenting-time consultant. Following a hearing on the outstanding motions, the parties agreed to retain the previously appointed parenting-time consultant. The parties met with the parenting-time consultant in May 2021 to address the summer 2021 parenting-time schedule. In August 2021, the parenting-time consultant set a proposed schedule for the 2021-2022 school year. The new schedule did not address any time thereafter.

In November 2021, the district court filed an extensive order evaluating the best interests' factors and found it was in the child's best interests to approve the parenting-time consultant's proposed 2021-2022 school-year schedule and deny father's motion to modify custody. And to help the parties address their ongoing conflicts, the district court ordered both parents to participate in a parenting class focused on conflict. Finally, the district court set a review hearing for March 14, 2022. Prior to the review hearing, the parenting-time consultant resigned.

At the review hearing, the district court noted that the parenting-time schedule for the summer of 2022 remained an outstanding issue. The district court asked the parties whether they wished to have a new parenting-time consultant appointed or have the district court set the schedule. The parties agreed to have the district court set the summer parenting-time schedule and to submit proposed calendars for the court's consideration.

On April 8, 2022, the district court filed an order adopting mother's proposed summer parenting-time schedule. Father requested reconsideration. *See* Minn. R. Gen. Pract. 115.11 (addressing motions for reconsideration). In an order on reconsideration, the district court updated the parenting-time schedule to allow additional parenting time with father for a scheduled trip but did not otherwise modify the April 8 order. In June 2022, father appealed the district court's April 8 order establishing the summer 2022 parenting-time schedule, arguing, in part, that it was not supported by sufficient factual findings.

While father's June 2022 appeal was pending, father filed a motion seeking equal parenting time during the 2022-2023 school year. In November 2022, the district court denied father's request for equal parenting time and ordered that the school-year schedule previously established by the parenting-time consultant continue with a few clarifications.

In November 2022, father appealed the district court's November 2022 order and filed a motion to consolidate his June 2022 and November 2022 appeals, which this court denied. In May 2023, this court decided father's June 2022 appeal. Father did not petition for further review in the supreme court and that decision became final. Therefore, this appeal only concerns the district court's November 2022 order, setting the 2022-2023 school-year schedule.

DECISION

Father challenges the 2022-2023 school-year schedule established by the district court's November 2022 order. We address father's arguments regarding the 2022-2023 school-year schedule in turn.

I. The district court did not abuse its discretion in setting the 2022-2023 school-year schedule.

District courts have broad discretion in deciding parenting-time issues. *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018). We will not reverse a parenting-time decision unless the district court “abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

Father argues that the district court abused its discretion by reducing his parenting time for the 2022-2023 school year compared to prior school years without making factual findings to support the reduction in father’s parenting time.¹ He further contends that, in setting the 2022-2023 school-year schedule, the district court effectively restricted rather than modified his parenting time. He maintains that the district court should have set the 2022-2023 school-year schedule at equal parenting time or, at a minimum, according to the terms of the district court’s order adopting the parenting-time consultant’s proposed schedule, which followed the general parameters set in the July 2019 order by providing that father would receive “three (3) weekends a month during the school year, including any adjacent days off from school.”

¹ “The doctrine of mootness requires that we decide only actual controversies and avoid advisory opinions.” *In re McCaskill*, 603 N.W.2d 326, 327 (Minn. 1999). This issue is not moot because judgment in this case can yield collateral consequences. *See id.* (stating that collateral consequences form an exception to the mootness doctrine).

A. The district court modified but did not substantially change father's parenting time.

To address father's argument, we must first determine whether the district court's order "modified or restricted" father's parenting time. A district court "shall" modify an order granting or denying parenting time "[i]f modification would serve the best interests of the child." Minn. Stat. § 518.175, subd. 5(b) (2022). With an exception not relevant here, a district court may not "restrict" parenting time unless it finds either that "parenting time is likely to endanger the child's physical or emotional health or impair the child's emotional development" or that "the parent has chronically and unreasonably failed to comply with court-ordered parenting time." *Id.*, subd. 5(c)(1), (2) (2022). "To determine whether a reduction in parenting time constitutes a restriction or modification, the court should consider the reasons for the change as well as the amount of the reduction." *Dahl v. Dahl*, 765 N.W.2d 118, 124 (Minn. App. 2009).

We begin our analysis here by "identify[ing] the order that establishes the baseline parenting-time schedule and then determin[ing] whether the district court's parenting-time change from the baseline parenting-time schedule is significant enough to constitute a restriction." *Id.* at 123. A parenting-time schedule includes "a specific schedule for parenting time, including the frequency and duration of visitation and visitation during holidays and vacations." Minn. Stat. § 518.175, subd. 1(e) (2022). The baseline parenting-time schedule is generally found in "the *last permanent and final order* setting parenting time." *Dahl*, 765 N.W.2d at 123 (emphasis added).

Father suggests that a combination of orders establish the baseline parenting-time schedule.² We disagree. The July 2019 order provided general parameters for the parenting-time consultant to follow in establishing a schedule, but it did not set a parenting-time schedule. The January 2020 order adopted the parenting-time consultant's proposed 2019-2020 school-year schedule and summer 2020 schedule, which were developed based on the general parameters provided in the July 2019 order. The December 2020 order adopted the existing school-year schedule for the 2020-2021 school year, with some clarifications, and approved the parties' stipulation to the continued appointment of the parenting-time consultant and agreement to limit the parenting-time consultant's powers in accordance with the parties July 2019 stipulation. As noted above, that stipulation only provided general parameters for the parenting-time consultant to follow. Therefore, we do not agree that the combination of these orders constitute the baseline parenting-time schedule. Further, while the May 2014 order set an annual parenting-time schedule, the order was established before the child entered school and as such did not set a specific school year or summer schedule. Consequently, it is unclear which district court order, if any of them, establishes the parties' baseline parenting-time schedule for the issue before us.

² During oral arguments before this court, we asked appellant to provide the date of the district court order that set the baseline parenting-time schedule for the school year that this court should look to when determining whether there has been a significant reduction in father's parenting time. Appellant asserts that the district court's July 2019, January 2020, and December 2020 orders establish the baseline parenting-time schedule.

Even assuming, without deciding, that the combination of these orders constitute a permanent and final order setting the baseline from which the parenting-time change should be measured, the district court's 2022-2023 school-year schedule did not amount to a restriction of father's parenting time. *See Dahl*, 765 N.W.2d at 123. As noted above, the July 2019 stipulated order provided that the parenting-time consultant would work with the parties to set a schedule "consistent with the agreement that Father shall receive three (3) weekends a month during the school calendar year, including any adjacent days off from school and greater than one-half of the summer non-school months."

For the 2019-2020 school year, the parenting-time consultant developed (and the district court subsequently adopted) a schedule that gave father "three (3) weekends per month" and "encompass[ed] all expanded weekends."

For the 2020-2021 school year, the district court ordered the parties to continue following the existing parenting-time schedule, specifying that since there was not a "specific calendar" for the school-year months—as the parties had failed to meet with the parenting-time consultant—the father's three weekends would "include any weekend that includes the first, second and fourth Friday of each month."

For the 2021-2022 school year, the parenting-time consultant developed (and the district court subsequently adopted) a schedule that followed the July 2019 stipulation's general parameters, making "small modifications to [father's] weekend rotations" to maximize father's parenting time.

For the 2022-2023 school year, the district court ordered the parties to continue following the existing parenting-time schedule, clarifying that father would have "3

weekends per month” and “may extend his weekend parenting time by up to one day if the child has school off on Friday.”

Even if the district court’s order resulted in father receiving fewer days in the 2022-2023 school year compared to the past school years, the change in father’s school-year parenting time is not significant and we therefore conclude that the change does not constitute a restriction.

B. The district court found that the modification was in the best interests of the child by incorporating the November 2021 order and finding that its best interests findings remained unchanged.

Father also seems to argue that, even if the change in the school-year parenting time amounts to a modification rather than a restriction, the district court failed to make adequate findings to support the modification. We are not persuaded. A district court “shall” grant a motion to modify parenting time “[i]f modification would serve the best interests of the child” and “would not change the child’s primary residence.” Minn. Stat. § 518.175, subd. 5(b). “In evaluating the best interests of the child for purposes of determining issues of custody and parenting time, the [district] court must consider and evaluate all relevant factors, including” 12 factors set forth by statute. Minn. Stat. § 518.17, subd. 1(a) (2022). “The court must make detailed findings on each of the factors . . . and explain how each factor led to its conclusions and to the determination of custody and parenting time.” *Id.*, subd. 1(b)(1) (2022).

Here, the district court determined that the 2022-2023 school-year schedule served the best interests of the child by incorporating its prior findings from its extensive November 2021 order and finding that its best interests findings remained unchanged. In

the November 2021 order, the district court included findings on all 12 statutory factors and explained how each factor led to its conclusions and to the determination of parenting time. The district court reasoned that mother had less quality time with the child, as the parent primarily responsible for the child's education, compared to father's weekend parenting time that is less structured around school. The district court's reasoning in the November 2021 order is consistent with its reasoning set forth in its November 2022 order setting the 2022-2023 school-year schedule.

In the November 2022 order, the district court justified the potential limit on father's parenting time, whereby he could only extend his weekend parenting time by up to one day if the child has school off on Friday, reasoning that mother only receives a few hours of quality time with the child, as her parenting time occurs on school days, whereas father has more quality time than the overnight calculations suggest. The district court also reasoned that its November 2021 best interests' findings remained unchanged because the parties' patterns of behavior had not sufficiently progressed, despite the various services and reviews previously ordered by the district court.

The district court reasoned that father's behaviors and communication skills had not sufficiently improved to support a finding that the parties could cooperatively parent, noting that father failed to follow recommendations and guidelines on how to communicate with mother and used delay tactics when returning the child to mother at the end of his parenting time. Ultimately, the district court decided that the schedule continued to meet the child's best interests because it "still provide[d] Father substantial quality time with the child" while distributing "quality time with the child" between both parents. We therefore

conclude that the district court's findings on the best interests of the child support the district court's decision to modify the parenting-time schedule.

Based on the district court's reason for the school-year modification and the amount of any potential reduction, we cannot conclude that the change constitutes a restriction in father's school-year parenting time. Therefore, keeping in mind the district court's broad discretion in parenting-time decisions, we conclude that the district court did not abuse its discretion by modifying the parenting-time schedule for the 2022-2023 school year.

Affirmed.